IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23686 of 2006

DATED: 28.11.2006

Between:

V.S.P.Vardhini petitioner

And
The Deputy General Manager,
Appellate Authority, I.O.B.,
P.O. No.3765, 763, Annasalai, Madras & another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 23686 of 1996

ORAL ORDER:

The present writ petition is filed questioning the proceedings of the first respondent-Appellate Authority dated 1.10.1996 confirming the order of dismissal from service dated 17.6.1996 and dismissing the appeal.

The petitioner herein was appointed as clerk in the respondent bank on compassionate grounds. She was issued with charge sheet dated 1.10.1994 and thereafter she was suspended from service on 6.3.1995. An additional charge sheet dated 12.5.1995 was also issued. After conducting an enquiry, the petitioner was dismissed from service on 17.6.1996. As against the said order, the petitioner preferred an appeal to the first respondent. The Appellate Authority, on considering the matter confirmed the punishment of dismissal and dismissed the appeal by orders dated 1.10.1996. Hence, the present writ petition.

The charges leveled against the petitioner vide charge sheet dated 1.10.1994 are as under:

> "1. You had removed the original specimen signature card, photo affixed on the specimen sheet and ledger folio relating to SB Account No. 5508 of Smt Kamala and replaced the specimen card and photos with the photo of another lady known to you, to facilitate fraudulent withdrawal of money from the SB Account of Smt Kalama.
>
> 2. You had connived to withdraw fraudulently

money from SB account 5508 of Smt Kamala by using forged withdrawal slips for Rs.23000/- dated 16.6.94 and Rs.9000/- dated 23.6.94 along with another lady known to you and misappropriated the money of Rs.32000/- so withdrawn.

3. You had destroyed the original records relating to SB 5508 of Smt Kamala, such as photos, specimen signature card, withdrawal slip dated 23.6.94 for Rs.9000/- after removing the same from bank's records."

By proceedings dated 12.5.1995 an additional charge was framed against the petitioner, which reads as under:

"a) By your acts you have caused damage to the property of the bank and its customers and thereby committed gross misconduct within the meaning of para 17.5 (d) of the Bipartite Settlement dated 14.12.66 between the bank and its workmen as amended upto date.

b) Your acts as above are also prejudicial to the interest of the bank within the meaning of gross misconduct as defined in para 17.5 (j) of the aforesaid Bipartite Settlement.

Learned counsel for petitioner mainly contended that the charges leveled against the petitioner are incorrect and she was implicated in the case to protect the interest of higher officials who were actually involved in the case. It is submitted that the petitioner being a counter clerk do not have direct access to the records of the bank and there is no scope to tamper the records. It is also submitted that fair and reasonable opportunity was not given in the enquiry proceedings and the punishment of dismissal from service is disproportionate to the charges leveled against her.

On the other hand, learned Standing Counsel for respondent bank submitted that the charges leveled against the petitioner are very

grave in nature and the same were proved in the enquiry and the punishment of dismissal from service is proportionate and needs no interference by this Court.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent bank and perused the material available on record.

As against the charges of tampering the records of the bank and misappropriation of the funds of the bank and causing damage to the property of the bank and the customers, a detailed enquiry was conducted. The enquiry officer, on conducting the enquiry submitted his findings holding that the charges leveled against the petitioner as proved. The respondent bank has adduced the evidence of M.W.1 to M.W.6 and marked documents Ex.ME 1 to ME 32. Thereafter a show cause notice dated 27.4.1996 was issued, for which the petitioner has submitted her written explanation. Upon considering the explanation submitted by the petitioner, and keeping in view the past record of the petitioner, the Disciplinary Authority issued proceedings dated 17.6.1996 dismissing the petitioner from service. The relevant portion of the dismissal order reads as under;

> "…From the findings, it is observed that all the charges leveled against you have been proved and that you were responsible for tampering of the records and misappropriation of bank's money. The charges leveled against you are very serious in nature and warrant deterrent punishment.
>
> Your past record is not good. You were punished with the major penalty of stoppage of five of your future increments with cumulative effect as per order dated 17.12.94 of the disciplinary authority. You did not also file any appeal and the punishment has become final.
>
> I have received your confidential explanation dated 22.5.96 in manuscript form. I am not convinced about your allegations made in the explanation dated 22.5.96, because various opportunities were given to

you to
put-forth your case, your exhibits, your witnesses and your views. You have not utilized the opportunities for extraneous reasons until the enquiry was concluded. Even during show cause hearing held at Madras Central office you have not mentioned these allegations. Hence, I am left with no other option but to conclude that these allegations made by you are only for fetched and are after thoughts.

There are no extenuating circumstances. On the other hand, by your misconduct, you failed to safeguard the job given to you on compassionate grounds, on the demise of your husband, who was the staff member. Hence, I find no reason to reduce the penalty proposed in the show cause notice.

I, therefore, pass these original orders, dismissing you from bank's service for the proved charges, in each one of the bipartite settlement dated 14.12.66 as amended uptodate. The dismissal orders will run concurrently."

As against the dismissal order, the petitioner preferred an appeal. The appellate authority, upon hearing the petitioner personally and taking into consideration the written arguments filed by the appellant/petitioner, confirmed the punishment by orders dated 1.10.1996. The relevant portion of appellate authority order reads as under;

"As regards the quantum of penalty, it is observed that you were responsible for tampering of the records and misappropriation of bank's money. Your past record is also not good. I find that previously you were punished with the penalty of stoppage of finve of your future increments with cumulative effect as per the order of the Disciplinary Authority dated 17.12.1994 for the gross misconduct committed by you. I also do not find any extenuating circumstances warranting a lesser penalty. Hence, the penalty of dismissal awarded to you by the Disciplinary Authority is well merited warranted and commensurate with the gravity of the proved charges and I do not see any reason to

interfere with the same.

In the result, I confirm the order of the Disciplinary Authority dated 17.6.1996 in all respects and dismiss your appeal."

In **Karnataka Bank Ltd. V. A.L. Mohan Rao**[1], the apex Court held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved, and that in such matters, it is for the disciplinary authority to decide what is the fit punishment.

In the present case, the charges leveled against the petitioner are with regard to tampering of the official records of the bank and fraudulently withdrawing the money from a Savings Bank account of a customer and causing damage to the property of the bank and its customers. As against the charges leveled against the petitioner an enquiry was ordered wherein the charges leveled against the petitioner were held proved, based on evidence available on record. The record would disclose that the petitioner was afforded reasonable opportunity to defend here case by both the Disciplinary and Appellate Authorities, before imposing the punishment, hence the contention of the counsel for petitioner that opportunity was not afforded to the petitioner, cannot be accepted. The disciplinary authority after considering the explanation submitted by the petitioner dated 22.5.1996 keeping in view the gravity of charges which were held proved in the enquiry, imposed the punishment of dismissal from service. The Appellate Authority also afforded reasonable opportunity to the petitioner to defend her case and after personally hearing and taking into consideration, the contentions raised by her in her written arguments, confirmed the order of the disciplinary authority dated

17.6.1996. It is a case of gross misconduct of tampering the records, fraudulently withdrawing the amount from a savings bank account of a customer and causing damage to the property of the bank and the customer, which is grave in nature and proved in the enquiry. In such circumstances, this Court is of the considered opinion that the petitioner has not made out a case for interference of this Court with the punishment imposed by the disciplinary authority as confirmed by the Appellate Authority. There are no merits in the writ petition. The order of the disciplinary authority as confirmed by the appellate authority needs no interference by this Court.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V.RAMANA,J

DATE:28.11.2006

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